

PROBATE CALENDAR NOTES

January 7, 2022

8:30 AM, Department 40

Placer County Superior Court

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Local Rule 10.27, "eDelivery/eFiling," requires electronic filing of documents by attorneys and represented parties.

These calendar notes are provided pursuant to Local Rule 80.1.4 for the probate calendar set for hearing **January 7, 2022, 8:30 AM, in Department 40**, the Commissioner Glenn M. Holley, presiding. Remote appearances are generally available for this calendar, as provided in the Local Rules.

Pursuant to Local Rule 80.1.4, these calendar notes are **not** a tentative ruling on the merits of any matter before the court.

Updated notes may be posted at any time and will generally be updated the court day prior to the hearing. Staff may respond to limited questions concerning calendar notes; however, court staff may not give legal advice to parties or attorneys. Messages may be left for the Office of Legal Research at (916) 408-6119.

1. S-PR-0004159 Spec Needs Trust of Jacob Paul Bernhardt; In re the

Clarification is needed: requested conservator and attorney fees exceed available property. Petitioner should clarify how fees, if awarded, will be paid.

2. S-PR-0008980 Lida M Weidlich Trust; In re the

3d trust account is recommended for approval as prayed.

3. S-PR-0009816 Burton, Bernard - In Re Estate of

Clarification is needed: personal representative neither waives fees nor claims fees. Express claim for fees or waiver of fees is needed.

Clarification is needed: estate holds no cash assets. Clarification is needed as to how attorney fees and costs are to be paid.

4. S-PR-0010049 Hollingshead, John Roy- In re the Estate of

Petition for final distribution is recommended for approval as prayed.

5. S-PR-0010389 Sylvester Denton & Margaret Denton 1990 Rev Trust; In re

Appearance is required for hearing on motion for reconsideration of the court's November 1, 2021, ruling.

6. S-PR-0010400 Marvin Fisher Rev Trust; In re the

Amended petition for instructions (R Elley)

Appearance is required for continued hearing on amended petition for instructions. Current status is needed.

Petition for instructions (L Reyes)

Appearance is required for continued hearing on petition for instructions. Current status is needed.

7. S-PR-0010416 Haines, Beverly Coil - In Re Estate of

Clarification is needed: petitioner alleges an annuity that was inventoried to the estate has a pay-on-death beneficiary. Such an asset appears to pass by nonprobate transfer and should not have been inventoried to the estate or used to calculate personal representative or attorney fees.

Missing account form period 16 June 2020 to 31 March 2021.

Clarification is needed: the account shows property taxes paid in Ohio and Virginia, without explanation. No real property was inventoried to the estate, and personal representative could not administer non-California real property in any event.

Clarification is needed: petitioner refers to conservatorship without explanation and without identifying any conservatorship case. It appears there has been no conservatorship of decedent in Placer county.

Points and authorities needed: petitioner alleges she unilaterally used estate property (as well as pre-death conservatorship property) of decedent to pay third-party obligations of beneficiary Donel Haines, and now seeks to charge his share for those unilateral payments. Points and authorities are needed to support petitioner's actions and requested relief, particularly with respect to payments made before estate administration. Petitioner has not cited any authority authorizing unilateral payment of third-party expenses from conservatorship or estate property.

Points and authorities and clarification are needed: petitioner alleges the estate has incurred expenses related to personal property of Donel Haines, which he may have abandoned when previously evicted from unidentified conservatorship real property. The duties and responsibilities of a property owner with respect to personal property left by a former occupant who was evicted as prescribed by law do not appear to be part of this estate administration. As above, no real property was inventoried to or administered by the estate. It is unclear how or why petitioner has taken possession of and used estate funds to pay expenses related to such third-party personal property.

Clarification is needed: petitioner asks for an order to distribute Donel Haines' distributive share to the State Controller if Donel Haines "refuses to communication with Petitioner and accept delivery" of his distributive share. Estate cash assets that cannot be distributed are subject to delivery to the county treasurer; estate non-cash may be sold upon order of the court, with the net proceeds delivered to the county treasurer; estate non-cash which is not sold may be delivered to the State Controller. Prob.C. §§ 11850 et seq. & 11900 et seq. Clarification is needed with respect to orders requested under these provisions.

8. S-PR-0010519 Mahoney, Ted; In re estate of

The estate is not in a condition to be closed because of outstanding creditor claim issue: BofA claim was rejected September 21; the petition was verified and filed prior to the expiration of the period in which a claim could be filed. BofA has not filed a satisfaction or withdrawal of the claim, and petitioner fails to allege whether a timely action has been brought on the rejected claim.

9. S-PR-0010686 Solovyeva, Ilya Romanovich; In re the Estate of

Clarification is needed: petitioner requests that attorney fees of \$25,173.96 and \$20,210.00 be awarded. See ¶ 15 at 3:17, 3:26, and 3:29; see also prayer ¶ 3 at 5:8 (page 5 is mis-numbered as page 2).

For the benefit of petitioner, the court notes that R&T § 19513, apparently referred to in the petition at ¶ 13, was repealed effective January 1, 2014.

10. S-PR-0010713 Donham, Jacob Michael Farrell- In Re the Estate of

Missing notice of hearing on petition for final distribution. Petitioner provides no evidence she has been appointed guardian of the estate of either minor beneficiary and so may waive notice on their behalf. See Prob.C. §§ 1204 & 1210; C.R.C. 7.51(d). Notice to each minor is required.

Missing final account or waiver of account by person entitled to waive account. Petitioner provides no evidence she has been appointed guardian of the estate or other fiduciary for either minor. Petitioner offers no legal basis for her purported waiver of account on minors' behalf. See Prob.C. § 10954(b)(2).

Petitioner failed to apply for increase in bond despite marshaling assets far in excess of the bond previously ordered by the court. See C.R.C. 7.207.

The estate is not in a condition to be closed because of outstanding creditor claim issue(s):

- BofA claim for \$4,403.26 was rejected in part; BofA has not filed a satisfaction or withdrawal of claim, and petitioner fails to report whether a timely action on the rejected portion of the claim has been filed.
- BofA claim for \$10,281.56 was rejected January 5, 2022. The time to bring an action on the claim will not run until approximately April 7, 2022.

Proposed distribution to petitioner requires appointment as guardian of the estate of each minor (with all concomitant duties, including requirement for guardianship bond). Petitioner's role as parent does not permit her to receive minors' estate distributive shares as requested. Note: petitioner's proposal to support minors through use of their own estates would displace petitioner's personal obligation of support. Such orders require either a guardianship or Family Code proceeding. Prob.C. § 2422(a); Fam.C. § 3902.

11. S-PR-0010880 In Re the Estate of Melrose, Mary Ann

Appearance is required for continued estate hearing.

12. S-PR-0010914 In Re the Estate of Beebe, Julie A.

Petition to administer estate is recommended for approval as prayed.

13. S-PR-0011004 In Re the Estate of Nguyen, Huong Thi Thuy

Appearance is required for continued hearing on spousal property petition.

Amendment to petition appears to be needed: petition prays only for *confirmation* of survivor's community property interests (¶ 1b); there is no prayer to determine any community property or separate property interest *passing to* survivor (see ¶ 1a). Attachment 7b may include only *survivor's* community share of listed properties and must

not include *decedent's* community or separate share of said properties. Supplement filed January 5, 2022, reiterates that all assets are community property, but incorrectly asserts that community property passes to petitioner. *Decedent's* share of community property may be determined as *passing to* petitioner (see ¶¶ 1a, 7a and Attachment 7a), but survivor's share can only be *confirmed* to be petitioner's property (see ¶¶ 1b, 7b and Attachment 7b). That is, each interest (decedent's community interest and survivor's community interest) are subject to differing relief and must be scheduled separately.

14. S-PR-0011005 In Re the Daly Fam Trust

Missing notice of hearing on petition to accept trustee resignation and appoint successor. Missing service of notice of hearing.

15. S-PR-0011008 In Re the Florence M Hughes Fam Trust

Appearance is required for continued hearing on petition re breach of duty and for declaratory relief.

16. S-PR-0011010 In Re the Estate of Rogers, Ross Brian

Petition to administer estate is recommended for approval as prayed.

17. S-PR-0011015 In Re the Estate of Jones, Paul Michael

Missing required Attachment 7, establishing a sufficient factual basis to determine the character of the subject property and establish that petitioner succeeds to the interests claimed. The date of marriage of decedent and petitioner, alone, is insufficient for the court to characterize the subject property interests as community or separate.

Note: response to calendar notes clarifies that decedent died intestate, effectively conceding that allegations at ¶¶ 10-11 are erroneous and were included in the petition in error.

Missing amended petition (see minutes for October 8 hearing).

18. S-PR-0011035 In Re the Estate of Cadrecha, David

Appearance is required for status / review hearing re special administration. Current status is needed.

Note: the petition by special administrator filed December 29, 2021, has not been reviewed by the court. Petitioner did not reserve any hearing date for the petition, and it is supported by no notice or service. The clerk would not have been able to schedule a hearing

for the petition on January 7, 2022, in any event due to court calendar limits. Petitioner should contact the clerk's office for a next available probate date for the petition.

19. S-PR-0011132 In Re the Estate of Trevis, Tina M.

Petition to administer estate is recommended for approval as prayed.

20. S-PR-0011146 In Re the Estate of Camp, Vanessa Dianne

Missing required allegations at ¶ 5a(3)-(4) (RDP).

Clarification is needed: missing allegations at ¶ 3g(2)(c), but ¶ 8 identifies petitioner as surviving spouse of decedent. Note: petitioner does not appear to qualify as a surviving spouse for purposes of Prob.C. § 78(d) and *Lahey v. Bianchi* (1999) 76 Cal.App.4th 1056.

Clarification is needed: petitioner identifies himself as a nonresident of California but also a resident of Roseville. See ¶ 3h(2).

21. S-PR-0011148 In Re the Linda L Tucker Rev Trust

The petition to determine trust property is recommended for approval in part.

The petition is recommended for approval as to Agilent Technologies account -9448 and HP accounts -7253 and -0026.

Clarification is required as to the life insurance policy / policies referred to in the petition. Petitioner may fail to distinguish between ownership of the policy and the right to beneficial policy proceeds. The petition refers to proceeds of insurance and / or annuity policies, with insufficient information to establish that settlor had any vested and assignable rights in an insurance or annuity policy. Ownership of such policies is distinct from policy contract rights to payment of proceeds. Additional allegations and / or points and authorities are needed.

ADD-ON

22. S-CV-0045667 In re the Amick Family Trust

Appearance is required for hearing on trust petition.

Missing notice of hearing, Prob.C. §§ 17203 & 1211. Missing 30 days' service of notice of hearing to Ron Fischer, Robert Walsh, Gregg Sanders, John Fuerstenburger. Other persons identified in the trust and petition have filed verified responses to the petition.